

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO

STATE OF OHIO, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, *et al.*,

Defendants.

Case No. 1:21-cv-675

Judge Timothy S. Black

JOINT STATUS REPORT

On January 26, 2022, the Court stayed this case and directed the parties to “promptly file a status update with the Court once the Sixth Circuit resolves Plaintiffs’ appeal.” Notation Order, Jan. 26, 2022. After the Sixth Circuit’s decision (on Nov. 30, 2023), the parties filed a joint status report (R.72, Dec. 13, 2023) suggesting that the stay continue until the time for further appeals would be exhausted, including any en banc petition (due 45 days after decision, or Jan. 16, 2023) or certiorari petition (due 90 days after decision, or Feb. 28, 2024). That time has now run, and no party filed for further review. Thus, the case is ripe to resume in this Court.

The parties jointly suggest the following courses of action, as to both preliminary relief and permanent resolution:

Agreed preliminary injunction – The Sixth Circuit affirmed in part and reversed in part this Court’s denial of Ohio’s request for a preliminary injunction, and the Court held that Ohio (but no other State) was entitled to preliminary relief. The parties agree that this Court should enter a preliminary injunction that implements the Sixth Circuit’s decision. The parties are conferring regarding this issue with the goal of filing, within the coming weeks, a Joint Motion and Proposed Order with details regarding the requested relief.

Briefing on the merits – The parties agree that this case can and should be resolved on summary judgment motions, and it is unlikely that a hearing or trial will be required. The parties

further agree that discovery will be non-existent or minimal, as this case arises under the Administrative Procedure Act (“APA”), and the administrative record is sufficient. Plaintiffs believe that any further factual development can be by affidavit and/or public records, or by minimal discovery between now and the proposed briefing schedule. Defendants believe that discovery is not necessary or appropriate in this APA case.

The parties aim to reach an agreed-upon schedule for summary judgment briefing once they have resolved the issue of preliminary injunctive relief. Accordingly, the parties are conferring regarding this issue with the goal of filing, within the coming weeks, a Joint Motion for a Briefing Schedule and a Proposed Order setting out a proposed schedule for summary judgment briefing.

Dated: March 29, 2024

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CERTIFICATE OF SERVICE

I hereby certify that on March 29, 2024, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system.

/s/ T. Elliot Gaiser

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